

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10924 OF 2022

Dr. Bilvesh Haresh Mandalia

... Petitioner

Versus

The Director, National Board of
Examinations in the Medical Sciences
and Ors.

... Respondents

Mr. Jogendra Thakur for the Petitioner.

Mr. Ganesh Gole a/w Mr. Bhavin Jain for Respondent Nos. 1 and 2.

CORAM : S.V. GANGAPURWALA &

R.N. LADDHA, J.J.

DATED : 12th OCTOBER, 2022

P.C. :-

1. The Petitioner seeks admission to NEET(PG) 2022. The first round of counseling is over. The Petition was filed on or about 12/09/2022.

2. Learned Counsel for the Petitioner submits that the Petitioner had filled in admission form seeking admission to the PG course pursuant to the NEET-PG examination from All India quota. The Petitioner had filled in form from general category. Learned Counsel submits that Petitioner could obtain the caste certificate only on 28/04/2022 and had forwarded the proposal for validation to Committee. The said caste certificate is validated on 17/08/2022. According to the learned Counsel for the Petitioner, as the Petitioner was not possessing the caste certificate at the relevant time, the Petitioner could not fill in the form from reserved category. It

is submitted that as now the validity is issued to the Petitioner, the Petitioner deserves to be considered from SC category. According to the learned Counsel no prejudice would be caused to the Respondents.

3. Learned Counsel for the Respondents submit that the schedule is fixed. The Petitioner had opportunity to correct mistakes in the admission form upto 07/04/2022 i.e. period of Edit Window. Final Edit Window from 26/04/2022 to 30/04/2022 was to rectify deficiencies regarding the signatures, photographs, images and nothing beyond that. According to the learned Counsel, the opportunity is given for the reserved category candidates to shift to the general category but vice a versa is not permitted. Rules do not permit. There would be other students also who may claim same benefits but have not approached the Court.

4. Learned Counsel for the Petitioner submits that the Petitioner on or about 22/4/2022 to 26/04/2022 requested for change of the category but the said application was not considered.

5. We have considered the submissions. The Rules are provided under the Brochure/ prospectus for admission to the PG course pursuant to the NEET-PG examination. It appears that as per clause 2.7 the option of editing certain information entered in the application form is available to the candidates during the Edit Window. The Edit Window herein in the present case was available from 29/03/2022 to 07/04/2022.

Final Edit Window is for the deficiencies related to the images (Photographs, signatures, thumb impressions). The same was available from 26/04/2022 to 30/04/2022.

6. It appears from the documents placed on record that the Petitioner could obtain caste certificate for the first time only on or about 28/04/2022. On the day, the Petitioner filled in the form, Petitioner was not in receipt of the caste certificate. As such, had opted from general category and not from reserved category.

7. Question would be whether it would be permissible now to allow the Petitioner to change category from general to reserved category. The Brochure provides for change of category from reserved to general because it may happen that the person has filled in form from reserved category but could not get caste certificate and/or validity certificate, in that event, said person can be considered from general category because there is no category like open category. It is always open competition category wherein any person from any category can participate. However, in case of reserved category, the general category candidate can not compete. In light of that, Brochure did not provide switching over from general to reserved category and more particularly after the Edit Window period is over.

8. It is submitted that first round of counseling is over. It may not be possible to issue any directions in that regard to the Respondents. It is for the Respondents to consider the

case of the Petitioner in accordance with the Rules and Brochure. The Respondents may consider Petitioner for further rounds from the reserved category and may take decision accordingly on its own merits.

9. With these observations, the Writ Petition is disposed of.
No costs.

(R.N.LADDHA, J.)

(S.V. GANGAPURWALA, J.)